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## Chapter 9 SELF-EMPLOYMENT

### 9.01 Introduction

The self-employment track is designed for Veterans who have the necessary job skills to start a business. Self-employment may also be the right track for Veterans who have limited access to traditional employment or require a more accommodating work environment due to the effects of a disability. This chapter provides guidance on the self-employment process, the assignment of categories for self-employment assistance, and self-employment in conjunction with a State Vocational Rehabilitation agency. Statutory and regulatory references are also provided throughout this chapter.

### 9.02 References and Resources

Laws:	Small Business Act of 1953, as Amended 38 United States Code (U.S.C.) 3104 38 U.S.C. 3107 38 U.S.C. 3117
Regulations:	38 Code of Federal Regulations (CFR) 21.50 38 CFR 21.84 38 CFR 21.88 38 CFR 21.98 38 CFR 21.184 38 CFR 21.214 38 CFR 21.252 38 CFR 21.257 38 CFR 21.258 38 CFR 21.282
VA Forms (VAF):	VAF 119, Report of Contact VAF 28-0794, Self-Employment Plan Approval Request VAF 28-0795, Business Plan Review Guide VAF 28-1902b, Counseling Record-Narrative Report VAF 28-1902n, Counseling Record-Narrative Report (Supplemental Information) VAF 28-1905d, Special Report of Training VAF 28-8872, Rehabilitation Plan
Websites:	<a href="http://www.sba.gov">www.sba.gov</a> <a href="http://www.vetbiz.gov">www.vetbiz.gov</a>

### 9.03 Self-Employment Overview

Self-employment is a viable rehabilitation objective for many Veterans. The conditions under which Vocational Rehabilitation and Employment (VR&E) can furnish self-employment services are outlined in 38 CFR 21.257. VR&E encourages self-employment as an objective for Veterans who are unlikely to achieve rehabilitation through employment with existing companies, agencies, or organizations.

#### a. Self-Employment Principles

VR&E's self-employment program framework is based on the following principles:

1. Enhance vocational opportunities for Veterans.
2. Assist Veterans in identifying self-employment potential and candidacy based on eligibility criteria for Category I or Category II levels of service (for additional information on the determination of categories, see M28R.VI.A.9.05).
3. Complete, coordinate, or contract for preliminary evaluations of Veterans' potential for self-employment, including identifying any areas of concern or barriers to the successful pursuit of self-employment.
4. Ensure adequate resources are available for the development of a proposed business plan.
5. Conduct a thorough feasibility analysis of all proposed business plans.
6. Establish realistic self-employment goals based on sound business research.
7. Provide services based on economic viability and severity of disability.
8. Monitor, evaluate, measure and verify all self-employment plans/goals.
9. Provide services and assistance that lead to sustaining a successful self-employment business that continues after rehabilitation services are completed.

#### b. Self-Employment Services for an Existing Business

Veterans who have an existing business may apply for chapter 31 benefits. As with any applicant, entitlement must be determined before the delivery of service. See M28R, Part IV, Section B, Chapter 2, Evaluation and Planning Determinations, for instruction on the determination of entitlement. If the self-employment position is suitable, which is defined as employment that is consistent with the Veteran's abilities, interests and aptitudes, the criteria for entitlement would not be met. Therefore, the delivery of chapter 31 benefits would not be authorized. VR&E cannot provide services solely to expand or update an existing suitable business.

If the Veteran meets all the entitlement criteria, and the self-employment position is not suitable, then the criteria for entitlement to chapter 31 services would be met. Therefore, the delivery of services would be authorized. Complete the steps outlined in this chapter to address the barriers that make the self-employment position unsuitable, or to develop a new self-employment vocational goal.

#### 9.04 Completion of a Comprehensive Evaluation

A preliminary self-employment evaluation assesses the Veteran's needs, potential, suitability and readiness to start a business. The evaluation will also identify and address all issues or barriers to the successful pursuit of a self-employment plan. This evaluation is completed during the evaluation and planning phase of service delivery as outlined in 38 CFR 21.184.

##### a. Responsibilities

The Vocational Rehabilitation Counselor (VRC) must work closely with the Veteran to foster an open line of communication to ensure that the evaluation process is successful. It is imperative that the VRC have a clear understanding of the Veteran's motivation, functional ability, and interest, as self-employment is one of the most demanding tracks to employment. It is much more challenging than simply obtaining and maintaining employment in a traditional setting. It is the responsibility of the VRC to assist the Veteran make an informed decision regarding this track to employment.

Examples of the demands and challenges associated with pursuing self-employment include the following:

- Developing a viable business plan
- Obtaining funding
- Securing a business location

- Hiring staff
- Obtaining an initial stock
- Advertising and marketing
- Understanding business and tax law
- Learning purchasing and accounting skills
- Developing a strong support system

Veterans are responsible for actively participating in the self-employment process from the onset of service. The Veteran must agree to use resources to assist in the development and implementation of a business plan. It is imperative that the Veteran has a clear understanding of the self-employment process before the pursuit of this track to employment. The intensive nature of the evaluation and planning process is lengthy and can take several months to complete. An informed Veteran will be better prepared to anticipate and work within the self-employment framework and timeline.

b. Preliminary Self-Employment Evaluation Questions

The following questions provide structure for VRCs when gathering information to determine the Veteran's suitability and readiness to start a business:

- What business would the Veteran like to start?
- Will the Veteran's disability pose any barriers to operating the business? If yes, what reasonable accommodations can be developed to address those barriers?
- What qualifications does the Veteran possess to ensure he/she has the ability to start and operate a business?
- What skills and/or knowledge will the Veteran need to acquire to operate this business?
- Why does the Veteran want to start this type of business?
- Where will the business be located?

- What hours and days will the business operate?
- Who will use the Veteran's service and/or buy the product(s)?
- Where are the Veteran's business/customers located?
- If you were a potential customer, why would you use this business? What would keep you coming back to this business?
- Is there another business like the one the Veteran proposes operating in the same area? If so, is it successful? Why or why not?
- How will the Veteran advertise his/her business?
- How many customers does the Veteran estimate he/she will have during the first and second year?
- How much money will be required to start the business? What are the likely sources for securing the start-up funds?
- How much money does the Veteran estimate he/she will earn during the first and second year?
- Will the Veteran hire employees? If so, how much will the Veteran pay the employees?
- Who will do the ordering, customer contact and bookkeeping?
- What equipment will be needed? How will the Veteran acquire this equipment?

The VRC may consider asking the Veteran to address these questions before the evaluation and planning meeting. This will not only be a useful tool to assess the Veteran's motivation and interest, but the responses can guide the meeting and ensure that a complete evaluation is obtained.

c. Preliminary Self-Employment Evaluation Findings

The preliminary self-employment evaluation findings will assist the VRC in determining if either of the following applies:

1. Self-employment is warranted. If so, then the VRC will assist the Veteran in the development of a business plan.

2. Self-employment is not warranted at this time. If so, then the VRC will consider alternative rehabilitation services.

NOTE: The VRC may use a contract counselor to complete this process if contractual agreements are in place for the use of for-profit entities.

#### 9.05 Categories Assignment for Self-Employment Assistance

The VRC must assign Veterans to one of two categories of services when the self-employment track is elected. The category assignment is based on information obtained from the initial entitlement orientation, as well as the preliminary evaluation for self-employment services. The provision of services is dependent on the category assignment and governed by 38 CFR 21.214, 21.252 and 21.257.

##### a. Category I

Veterans designated as Category I must meet the following four conditions:

1. Serious employment handicap (SEH).
2. Most-severe service-connected disabilities.
3. Employability limitations so severe that self-employment is the only option to achieve the rehabilitation goal.
4. All other reasonable employment goals are unsuitable due to the severity of the Veteran's service connected disability(ies).

##### b. Category II

Veterans designated as Category II must have one of the following:

1. Employment handicap, or
2. SEH, but the service-connected disability(ies) is not considered most severe.

##### c. Provision of Service

The provision of service is based on category assignment.

1. Services Available to Veterans Classified as Category I



VR&E may provide the following level of special services and assistance to Veterans assigned to Category I:

- (a) Comprehensive training in the vocational goal, and in the operation of a small business.
- (b) Minimum stocks of materials such as an inventory of salable merchandise or goods.
- (c) Expendable items required for day-to-day operations, and items which are consumed on the premises.
- (d) Essential equipment, including machinery, occupational fixtures, accessories and appliances.
- (e) Incidental services such as business license fees.
- (f) If the Veteran incurred costs for training or other rehabilitation services, and the VRC determines that the training and/or other rehabilitation services were reasonably needed to achieve the goals of the rehabilitation plan, then those costs can be reimbursed per 38 CFR 21.282(c).

2. Services Available to Veterans Classified as Category II

VR&E may provide the following level of special services and assistance to Veterans assigned to Category II:

- (a) Comprehensive training in the vocational goal.
- (b) Incidental training in the management of a small business.
- (c) License or other fees required for employment.
- (d) Personal tools and supplies that are required of all individuals to begin employment in the approved occupational field.
- (e) If the Veteran incurred costs for training or other rehabilitation services, and the VRC determines that the training and/or other rehabilitation services were reasonably needed to achieve the goals of the rehabilitation plan, then those costs can be reimbursed per 38 CFR 21.282(c).

3. Services and assistance Veterans Affairs (VA) may not authorize

Certain discrete services may not be provided to Veterans participating in the self-employment track. VA must not authorize any of the following:

- (a) Full or partial payment to purchase land or buildings.
- (b) Lease or rental payments.
- (c) Purchase or rentals of cars, trucks, or other vehicles.
- (d) Stocking either a farm for animal husbandry operations or a fishery.

#### 9.06 Develop a Proposed Business Plan

##### a. Business Plan Development

###### 1. Responsibilities

The VRC coordinates services and assists the Veteran develop a proposed business plan. The proposed business plan will address all items identified on VAF 28-0795, Business Plan Review Guide. See Appendix O, VA Forms, for a copy of VAF 28-0795. For existing businesses, the business plan must address barriers that existed to make the business unsuitable. The Veteran is responsible for developing the written business plan for VR&E's consideration. The VRC will ensure that the Veteran works with a professional business consultant, either on a voluntary or contractual basis, as a guide in this process. The business consultant may:

- Recommend potential funding resources
- Assist in developing a funding package
- Suggest marketing strategies
- Conduct a feasibility analysis of the business plan
- Recommend actions to increase the viability of the business plan

###### 2. Resources

The following resources are available to assist in the development of a business plan:

- (a) U.S. Small Business Administration (SBA)

The SBA is a government agency designed to provide counseling, advice, and information on starting a business. SBA has district offices located around the country that provide these services through a variety of programs, including the following:

- (1) Service Corps of Retired Executives (SCORE) is a non-profit association of volunteer business counselors trained to serve as advisors and mentors to people who are attempting to start a business.
- (2) Small Business Development Centers (SBDC) are partnerships primarily between the government and colleges/universities. SBDCs provide education services to people who are attempting to start a business. SBDC services include assisting small businesses with financial, marketing, production, organization, engineering and technical issues, and feasibility studies.
- (3) Veterans Business Outreach Centers (VBOC) are designed to provide entrepreneurial development services, such as business training, counseling, and mentoring services. VBOCs provide pre-business plan workshops, concept assessments, business plan preparations and comprehensive feasibility analysis.

These services are free and community based. See [www.sba.gov](http://www.sba.gov) for additional information on programs administered, and services offered, by the SBA.

- (b) Center for Veterans Enterprise (CVE) assists Veterans who own or want to start a business by providing counseling services to meet financial, management, and technical needs. CVE also assists VA Contracting Officers identify Veteran-owned small businesses, which have priority in the award process in certain government contracting situations. See [www.vetbiz.gov](http://www.vetbiz.gov) for additional information on CVE.
- (c) Other public or private small business consulting agencies, such as universities, colleges, and business development centers.

#### b. Review and Analysis of Business Plan

##### 1. Addressing Viability and Feasibility

The VRC must review and analyze the Veteran's business plan to ensure that it is viable and the proposed vocational goal is feasible, and in the

case of an existing business to ensure the barriers that existed to make the business unsuitable have been addressed. All proposed and formal business plans should address the following areas in order for the VRC to conduct a thorough analysis of the plan:

- (a) The location and if applicable the cost of the site selected for the business.
- (b) A financial statement describing the availability of non-VA financing, including the Veteran's financial resources.
- (c) A study of the economic viability of the proposed business plan, which must discuss the following issues:
  - Business location in relation to the geographic distribution of the population that the business would serve
  - Population traffic patterns, which would bring business to the Veteran's proposed site of operation
  - Probability that the business could serve as a subcontractor to larger organizations
  - Probability that the business could provide contract goods or services to VA or other federal agencies
  - Competition the Veteran would face from similar businesses in the market area
  - Comparison of the operational expenses and projected growth in gross and net income from the business over the first five years of operation
  - The Veteran's ability to absorb losses in the early years of operation until the business develops an adequate market share
- (d) A cost analysis specifying the types, amounts, and estimated costs of services, initial stocks and other supplies.
- (e) A working outline for developing a market strategy for the business' services or products.
- (f) A detailed description of the business' operation plan.

- (g) A schedule of the training needed for successful operation of the business.
- (h) Results of contacts with the SBA to secure consideration under Section 8 of the Small Business Act of 1953, as Amended.

The VRC should provide this information to the Veteran in advance of his/her meeting with the agency who will be assisting in the development of the business plan. This will ensure that all questions are addressed initially, reducing the likelihood that the Veteran will propose an incomplete business plan.

## 2. Responsibilities

The VRC must ensure the following events occur:

- (a) Assessment of the economic viability of the proposed business plan is conducted, arranged, or contracted.
- (b) Arrangement of professional consultations on either a voluntary or contractual basis to assist with the development and assessment of the business plan.
- (c) Determination that the Veteran's business plan addresses all items in the Business Plan Review Guide, VAF 28-0795.

## 3. Resources for Business Plan Analysis

To assist with the analysis of the business plan, VRCs may consult with a variety of organizations and entities, including, but not limited to:

- Business associations
- Economic development corporations
- College business programs

## c. Summation of Business Plan Analysis

VRCs must complete a summation of the business plan analysis. This summation answers the questions outlined in the Business Plan Review Guide, as well as any additional supporting documentation relevant to the Veteran's request for self-employment services. The summation should

clearly identify the viability of the business plan and rehabilitation services needed. The VRC must:

1. Summarize information from the business plan analysis into a written report, either in a VAF 28-1902b, VAF 28-1902n, or in a Corporate WINRS (CWINRS) case note. See Appendix O, VA Forms, for a copy of these forms.
2. Obtain the written report from the contractor/vendor who assisted in completing the evaluation of feasibility for a proposed business plan, if applicable. Include a copy of this report in the Veteran's Counseling Evaluation Rehabilitation (CER) folder.

#### 9.07 Develop and Implement a Self-Employment Rehabilitation Plan

##### a. Individualized Written Rehabilitation Plan (IWRP)/Individualized Employment Assistance Plan (IEAP) Development

The VRC and Veteran will discuss the findings of the business plan review and feasibility assessment in an effort to develop an IWRP that will incorporate components or vocational objectives of an IEAP. The plan must clearly outline the Veteran's goals and objectives, as well as criteria for measuring the success of those goals and objectives. The VRC must ensure that the objectives of the IWRP/IEAP specifically address all identified needs to prepare for, obtain, and maintain self-employment as outlined in 38 CFR 21.84 and 21.88, including:

- Allocation of resources
- Purchasing of equipment, inventory and supplies
- Training needs
- Required licenses and permits
- Funding needs
- For existing businesses, all barriers that made the business unsuitable must be clearly addressed

##### b. Self-Employment Plan Concurrence

Per 38 CFR 21.258, the VR&E Officer (VREO) must approve all self-employment plans with an estimated or actual cost of up to \$25,000 for the

total cost of the plan. The VR&E Service Director must approve a self-employment plan with an estimated or actual cost of \$25,000 or more. The VRC must submit the self-employment plan and VAF 28-0794, Self-Employment Plan Approval Request, to the VREO for approval before obtaining the Veteran's signature or authorizing any service. See Appendix O, VA Forms, for a copy of VAF 28-0794.

If the VREO approves the self-employment plan, then the Veteran and VRC both sign VAF 28-8872, Rehabilitation Plan. See Appendix O, VA Forms, for a copy of VAF 28-8872. The VRC will provide a copy of the signed VAF 28-8872 to the Veteran and place the original form on the right side of the CER folder.

If the VREO does not approve the self-employment plan, then the VRC must perform one of the following tasks:

1. Take the recommended corrective action(s) for approval of a revised self-employment plan.
2. Consider alternative rehabilitation options if revision will not result in approval.

If the VREO does not approve the self-employment plan, and efforts by the VRC did not meet the Veteran's expectations or request for service, the Veteran can appeal the disagreement over the development of the plan per 38 U.S.C. 3107 and 38 CFR 21.98. In this situation, the Veteran must submit a written statement to the VRC requesting a review of the proposed plan and detailing his/her objections to the terms and conditions of the proposed plan.

c. Case Management

The VRC moves the case to rehabilitation to the point of employability status for the implementation and provision of services once all approval and signatures are obtained for the self-employment plan. During this time, the VRC provides case management services to ensure that the objectives and goals of the rehabilitation plan are being addressed and met. Additionally, the VRC will discuss any concerns with the Veteran and take appropriate action(s) to address those concerns, ensuring that the Veteran has every opportunity to succeed.

The VRC must make a determination of the Veteran's job-readiness after all necessary services have been provided to successfully establish the business and to ensure that the business is viable and there are no impediments in

operating the business. Once the Veteran is declared job-ready, the VRC must change the case status to Job Ready Status (JRS).

The VRC must perform the following case management tasks during this status:

1. Determine Veteran's eligibility for EAA payment. If Veteran is eligible, authorize EAA payment.
2. Conduct supervision at least monthly to monitor the Veteran's progress and satisfactory conduct and participation.
3. Conduct follow-up contacts for a minimum of 12 months after the successful start of a business to ensure that the Veteran's business is successful and all needs are addressed and met.

9.08 Self-Employment Services in Conjunction with a State Vocational Rehabilitation Agency

VR&E may furnish self-employment services to a Veteran who has trained for self-employment under a State Vocational Rehabilitation agency per 38 U.S.C. 3117. The Veteran must meet the requirements for self-employment for Veterans with the most severe disabilities in accordance with 38 CFR 21.257(b), which states that the Veteran's service-connected disability(ies) result in limitations so severe that self-employment is the only reasonably feasible vocational goal. The Veteran must complete an initial evaluation to determine the level of employment handicap and if the achievement of a vocational goal is feasible per the provisions of 38 CFR 21.50. The following conditions must also be met:

- a. The Veteran is eligible for VA-sponsored employment assistance.
- b. An official of the State Vocational Rehabilitation agency with responsibility for administering self-employment programs certifies the following:
  1. The Veteran has successfully completed training for a self-employment program.
  2. The assistance needed is not available through non-VA sources.
  3. The state program's training/employment plan describes the VA assistance needed.
- c. The VR&E Service Director approves the request.



## 9.09 Limited and Specifically Defined Employment Assistance

Veterans who are employable and previously completed a vocational rehabilitation program for self-employment in a small business enterprise under Chapter 31, or who trained under a State Vocational Rehabilitation program with the objective of self-employment in a small business enterprise, can receive specifically defined employment assistance described in this section. Per 38 U.S.C. 3104(a)(12), these specifically defined services and assistance are limited to the following:

- a. Employment service is limited to facilitation of services required to secure an SBA-backed loan to buy equipment necessary to establish a business, and assistance to ensure receipt of the special consideration provided for in section 8 of the Small Business Act (15 U.S.C. 633(b)).
- b. For Veterans with the most severe service-connected disability, VA can provide license fees, supplementary equipment, initial stocks, and supplies that the VRC determines are necessary to establish a business.

To provide this assistance, the VRC must conduct an initial evaluation to determine that the Veteran is employable in an occupation consistent with his/her abilities, aptitudes, and interests. An IEAP is required. Determinations of employment handicap, serious employment handicap, and current reasonable feasibility are not applicable, unless the evaluation indicates that the Veteran is not employable. In that situation, entitlement to other Chapter 31 services and assistance must be determined. These limited and specifically defined services are subject to the 18-month employment services entitlement limitation.

## 9.10 Required Documents for the Delivery of Self-Employment Services

- a. The Self-Employment Fact Sheet covers a variety of information, including:
  - Identification of supplies and related assistance that VR&E may not authorize
  - Definition of Category I and II and outline of the types of assistance available in each category
  - Description of the business consultant's role
- b. The Preliminary Self-Employment Evaluation provides guidance on gathering information to determine the Veteran's suitability and readiness to start a business.

- c. VAF 28-0795, Business Plan Review Guide, provides guidance on conducting a feasibility analysis of a proposed business plan.
- d. VAF 28-0794, Self-Employment Plan Approval Request, details the submission request for the proposed self-employment plan for concurrence to the VR&E Officer.
- e. VAF 28-8872, Rehabilitation Plan, outlines the services necessary to obtain and maintain suitable self-employment.
- f. VAF 28-1905d, Special Report of Training, VAF 119, Report of Contact, or CWINRS' case notes can be used to document and monitor services provided to a Veteran.

See Appendix O, VA Forms, for a copy of these forms.